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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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12 MARCELLA NAVARRETE, an
13 individual, JOSE CASTANEDA; an
individual

14 Plaintiff,

15 vs.

16 JESSIE ARANA, an individual named
in his personal capacity; CHRIS
17 STEVENS, an individual named in his
personal capacity; and MICHELLE
18 KING; in her official capacity as
Superintendent of Los Angeles
19 Unified School District

20 Defendants.

1 } **CASE NO. 2:16-cv-01230-PA-AFM**

14 } **FIRST AMENDED COMPLAINT
FOR:**

15 }
16 } 1. **42 U.S.C. § 1983: EXCESSIVE
FORCE IN VIOLATION OF
THE FOURTH AND
FOURTEENTH AMENDMENT**
17 } 2. **42 U.S.C. § 1983:
RETALIATORY ARREST IN
VIOLATION OF THE FIRST
AND FOURTEENTH
AMENDMENT**
18 } 3. **42 U.S.C. § 1983:
UNLAWFUL RESTRAINT OF
THE RIGHT TO FREE
SPEECH IN VIOLATION OF
THE FIRST AND
FOURTEENTH AMENDMENT**
19 }
20 } **AND DEMAND FOR JURY TRIAL**

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STATEMENT OF JURISDICTION

1. This is an action brought under 42 U.S.C. § 1983 to recover damages against defendants for violations of Plaintiffs' right against unlawful search and seizure guaranteed by the Fourth and Fourteenth amendment, and for violations of Plaintiffs' right to free speech guaranteed by the First and Fourteenth amendment. The jurisdiction of this Court is predicated on 28 U.S.C. §§ 1331 and 1343.

2. Plaintiff, Marcella Navarrete, is, and at all times mentioned in this complaint was, a citizen of the United States, and a resident of Los Angeles, California.

3. Plaintiff, Jose Castaneda, is, and at all times mentioned in this complaint was, a citizen of the United States, and a resident of Los Angeles, California.

4. Defendant Officer Jessie Arana, and at all times mentioned in this complaint was, a resident of Los Angeles County, California. Venue is therefore proper under 28 U.S.C. §1391(b).

5. Defendant Officer Lieutenant Chris Stevens, is, and at all times mentioned in this complaint was, a resident of Los Angeles County, California. Venue is therefore proper under 28 U.S.C. §1391(b).

6. A substantial part of the events giving rise to this action occurred in Los Angeles County, California. Venue is therefore proper under 28 U.S.C. § 1331(b).

7. Defendant Arana was, at all times mentioned in this complaint, a police officer employed by the Los Angeles Unified School District Police Force (“LAUSDPF”), a locally funded agency.

8. Defendant Arana was, at all times mentioned in this complaint, acting in the course and scope of his employment with the LAUSDPF. Defendant Arana is named in his personal capacity and is sued for damages.

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9. Defendant Stevens was, at all times mentioned in this complaint, was a police officer with the rank of Lieutenant, employed by LAUSDPF. Defendant Stevens is named in his personal capacity and is sued for damages.

10. Defendant Stevens was, at all times mentioned in this complaint, acting in the course and scope of his employment with the LAUSDPF.

11. Defendant King, is the current Superintendent of Los Angeles Unified School District (“LAUSD”), the entity with ultimate control over LAUSDPF. Defendant King is named in her official capacity and is sued for injunctive relief only.

12. Defendants Arana, Stevens, and King were, at all times mentioned in this complaint, acting under color of state law.

13. Defendant Arana is sued in his personal capacity.

14. Defendant Stevens is sued in his personal capacity.

15. Defendant King is sued in her official capacity as Superintendent of LAUSD.

FACTS

16. Plaintiff Navarrete is a 53-year old Video journalist employed full time by the National Broadcast Channel (“NBC”). She has worked as a video journalist for approximately 23 years in the Los Angeles area.

17. As part of her employment Navarrete is sent to cover breaking news stories. She brings a camera and shoots footage that she then edits for use by NBC and NBC affiliates.

18. Navarrete, at all relevant times had her press credential registered with the Los Angeles Police Department (“LAPD”).

19. On or around the morning of October 15, 2013, at approximately 10:00AM Navarrete was sent to cover an incident at 21040 Hart Street, in Canoga Park, California. She was accompanied by her intern.

1 20. Navarrete was sent to cover a developing story at a local high school
 2 at that location.

3 21. When Navarrete arrived on location she parked her car on Hart Street,
 4 on the opposite side of the street as the school. Hart Street runs directly in front of
 5 the main entrance of the school. She did so because officers from LAPD had
 6 closed off the two streets—Varie Avenue and Independence Avenue--that ran
 7 perpendicular to Hart and border the school.

8 22. After parking her car, Navarrete took her camera out of her van and
 9 stood on the sidewalk, on the opposite side of Hart from the school.

10 23. At the time Navarrete began filming there were no police personal on
 11 Hart Street and no yellow tape indicating that where she was standing was a
 12 restricted area or a crime scene. As she began filming numerous pedestrians were
 13 walking by Navarrete on the side walk and cars were also driving down Hart Street.

14 24. Plaintiff Navarrete is informed and believes, and thereon alleges that
 15 it is common practice for the LAPD to mark off crime scenes or other restricted
 16 access areas with yellow tape. In Navarrete's twenty plus years working as a video
 17 journalist she has respected properly marked off restricted areas.

18 25. Based on Navarette's experience, she believed she was entitled to
 19 stand on the sidewalk on Hart Street because 1) the area had not been marked as
 20 "restricted" with yellow tape, and 2) pedestrians were moving in and out of the area
 21 without restriction.

22 26. Plaintiff is informed and believes, and thereon alleges that under long
 23 standing police custom, practice, and policy, the press is allowed to stand on any
 24 public area that has not been marked restricted using yellow tape, or some
 25 equivalent designation.

26 27. While Plaintiff Navarrete was filming the front of the school, with her
 27 camera held up to her eye, LAUSDPF officer and Defendant Jess Arana, without
 28 issuing a verbal warning, pushed Plaintiff Navarrete's camera back into her face

1 then down away from her face. Plaintiff Navarrete did not see Officer Arana
 2 approaching because she was looking through the lens of her camera and was
 3 holding the lens up to her eye – something that Defendant Arana should have
 4 obviously seen.

5 28. Defendant did not say anything to Navarrete before knocking her
 6 camera. After he knocked Navarrete's camera into and away from her eye, Arana,
 7 who was in uniform, shouted "Move. . .you cannot film here." Navarrete responded
 8 "Why? Where is the yellow tape? Is this a crime scene?" Defendant Arana
 9 responded with "No, Just move. . .you cannot film here at all." Navarrete then told
 10 Defendant Arana that she believed she had a legal right to stand on a public
 11 sidewalk and take footage and that she would call her boss to confirm that she was
 12 allowed to do so. Arana allowed Navarrete to speak with her boss over the phone.
 13 Navarrete's boss confirmed for Navarrete that as long as the scene is not marked a
 14 crime scene, Navarrete was allowed to stand on a public sidewalk and film.
 15 Plaintiff's boss told her to show Defendant Arana her press badge. After putting
 16 away her phone. Navarrete showed Arana her press badge, and said "I am protected
 17 by the right of free speech to film here. I am protected by the Constitution."

18 29. Officer Arana grabbed Plaintiff's press badge—on a lanyard around
 19 Plaintiff's neck—and attempted to yank it off. Defendant Arana's forceful action
 20 pulled Plaintiff's neck down toward her chest. Defendant than said, "I am going to
 21 put you under arrest." Plaintiff responded, "Why?" Defendant answered to "Give
 22 me your license." At that point Plaintiff began to fear that Defendant planned to
 23 use force on her. She said "Please go slowly, I have an injury. Please let me put
 24 my camera down. My license is in my truck." Plaintiff took one step toward her
 25 truck, and placed her camera down with her right hand. Defendant immediately
 26 grabbed her right hand and pulled it behind Plaintiff's back, and attempted to raise
 27 it high up along her back. Plaintiff screamed in pain and began to cry. Plaintiff
 28 Navarrete, as she told Defendant Arana, had a previous injury to her right shoulder

1 and Defendant Arana's unnecessary use of force in placing Plaintiff's hand behind
 2 her back – before she even could obey Defendant Arana's order to retrieve her
 3 license – aggravated Navarrete's shoulder injury. The pain was so severe Plaintiff
 4 screamed and cried. Defendant Arana then released Plaintiff's injured arm and
 5 yelled at her to sit down on the curb. Plaintiff sat down on the curb as ordered.
 6 Defendant Arana never placed handcuffs on Navarrete, nor did he attempt to arrest
 7 her. His only action was to physically rip her arm up behind her back.

8 30. The Defendant Arana then told Plaintiff that he "knew people at
 9 LAPD" and that if he wanted to "he could have her press pass taken away." He
 10 then told her "You are the not press, I know the press, and you are not the press."
 11 Plaintiff would be unable to do her job if her pass was taken away and she became
 12 frightened. She believed the Defendant Arana was threatening to take her pass
 13 away if she told anyone that he had injured her shoulder or if she complained about
 14 him preventing her from filming on a public sidewalk. Defendant Arana told
 15 Plaintiff that "he was doing her a favor" and ordered her to "go home and be a good
 16 girl." Fearing further injury if she remained and once again attempted to exercise
 17 her right to take footage for the news–protected by the First Amendment--Plaintiff
 18 drove away. Plaintiff also left in fear that had she stayed, Defendant Arana would
 19 succeed in having her press pass taken away resulting in Plaintiff's termination.
 20 Plaintiff left the scene without having been able to complete the filming she had
 21 been assigned to do by her employer.

22 31. Plaintiff is informed and believes, and thereon alleges that Defendant
 23 Arana –as a member of the Los Angeles Unified School District Police Force –
 24 lacked correct legal authority to order Plaintiff off a public sidewalk that was not
 25 on, or even adjacent to property owned or leased by Los Angeles Unified School
 26 District. Plaintiff is informed and believes and thereon alleges Defendant Arana
 27 possessed no legal authority over non-students located off of District property at
 28 all.

1 32. Plaintiff is informed and believes, and thereon alleges that Defendant
 2 Arana hit Plaintiff's camera, applied force to her shoulder, and threatened to have
 3 her press pass taken away in order to prevent Plaintiff from capturing the name of
 4 the school–displayed prominently on a sign facing Hart Street–on camera. Plaintiff
 5 is informed and believes and thereon alleges Defendant Arana took these actions
 6 with full knowledge that Plaintiff was not violating any law nor was any threat to
 7 public safety by standing where she was. In fact, Plaintiff is informed and believes
 8 and thereon alleges that Defendant Arana had full knowledge that Plaintiff
 9 Navarrete had a First Amendment right to take footage from that public sidewalk
 10 where she was.

11 33. Plaintiff believes that Defendant's statement "You are not the press"
 12 was a reference to the fact that Navarrete works for Spanish media and not English
 13 language television. Plaintiff has, in the past, been treated differently by other
 14 police officers than her colleagues who work as video journalists for English
 15 language television networks.

16 34. Plaintiff believes Defendant Arana threatened to remove her press
 17 pass and ordered her to go home so that she would not tell anyone of the actions he
 18 took – including his excessive use of force in injuring Plaintiff's arm. Plaintiff is
 19 also informed and believes and thereon alleges that Defendant ordered her to go
 20 home in order to prevent her from exercising her First Amendment right to perform
 21 video journalism, in part in retaliation for Plaintiff asserting her First Amendment
 22 rights.

23 35. As a result of Defendant Arana's violent pulling of Navarrete's arm
 24 behind her back, she had severe pain in her right shoulder for the rest of the day.
 25 This pain has continued to today. The injury was particularly painful and
 26 damaging to Navarrete because the pain would increase and her right shoulder
 27 would become aggravated anytime she held her camera. Because Navarrete was
 28 required to hold her camera for almost all of her work assignments as a video

journalist, and use her right shoulder to do so, she suffered the effects of Defendant's excessive use of force and civil rights violations against her on a daily basis. In the weeks that followed the incident, Navarrete's shoulder became more and more painful and at times prevented her from being able to carry her camera for work.

36. During the weeks after this incident, Navarrete feared that if she took time off to heal she would lose her job. She saw several doctors who recommended either expensive surgery—that would require Navarrete to stop working for 3-4 months—or prescribed pain medication. As a result of continued pain, Plaintiff Navarrete had no choice but to take the medication as prescribed. If she were to get surgery she feared she would lose her job. Taking the medication as prescribed resulted in Navarrete suffering from severe anxiety. Navarrete continued to fear the pain would get so bad that she would not be able to work. This fear of losing her job, and her career, also caused Navarrete to suffer severe anxiety and emotional distress. All of Plaintiff Navarrete’s emotional distress following Defendant Arana’s actions occurred as a reasonable and foreseeable result of Defendant’s conduct.

37. Several weeks after the incident Plaintiff Navarrete and her boss met with Defendant Chris Stevens, who was Arana's supervisor at the time of the incident. Stevens took Navarrete's declaration and told her that he would investigate the incident and then contact Plaintiff about the results of his investigation. This in person meeting was set up on a phone call that occurred approximately one week after the incident, in which Navarrete spoke with Stevens and described the incident and her interest in pursuing a formal complaint against Arana. After Stevens took her statement, Navarrete, nor her boss ever heard from anyone at LAUSDPF again.

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1 38. Navarrete is informed and believes and thereon alleges that Stevens
 2 took no action to investigate her complaint, and only took her statement in the
 3 hopes of using that statement against her were she to file a formal case.

4 39. Navarrete is informed and believes and thereon alleges that Stevens
 5 deliberately failed to discipline Arana for actions that Stevens knew had violated
 6 Plaintiff's constitutional rights and were an excessive use of force.

7 40. Plaintiff Navarrete is informed and believes and thereon alleges
 8 Defendant King, and LAUSDPF provide no training to LAUSDPF officers relating
 9 to the constitutional rights associated with video journalists. Plaintiff is informed
 10 and believes that LAUSDPF and King were aware of Arana's acts as well as
 11 Navarrete's complaint.

12 41. On or around the morning of October 15, 2013, at approximately 9:00
 13 a.m., Plaintiff Jose Castenada was sent to cover an incident at 21040 Hart Street, in
 14 Canoga Park, California. He was a free lance video journalist and had been one for
 15 approximately two years.

16 42. Castenada parked on Hart Street, on the opposite side of the school,
 17 approximately ten feet from the corner of Hart and Variel Avenue. When he got
 18 out his car he saw LAPD officers at the corner and that they had taped off an area
 19 of Variel Avenue and blocked traffic.

20 43. Castenada pulled his camera and tripod out of his car and began to
 21 prepare to film the school. Defendant Arana approached him and said, "You
 22 cannot be here, you need to go to the command center." Castenada was standing
 23 on a public sidewalk and not inside of any marked off area. It was Castenada's
 24 understanding that, if a public sidewalk was not taped off he had a First
 25 Amendment right to stand there and take footage. Castenada asked Defendant
 26 Arana if he could get a few minutes of film and be on his way. Arana responded
 27 "No. Get out of here." Castenada then asked, "Can you explain to me why I cannot
 28 be here?" Arana then said "I am going to arrest you," and grabbed Castenada's

1 right arm—with which he was holding his camera. Defendant Arana then grabbed
 2 his left arm and brought both of Castenada's hands behind his back. Plaintiff
 3 Castenada asked Arana, "Why are you doing this?" Arana responded, "Be quiet and
 4 turn around. . .give me your license." Arana allowed Castenada to hand Arana his
 5 license. He then told him to "keep his hands behind his back." Arana took the
 6 license and went to his car to run a warrant check on Castenada. Castenada was
 7 wearing his press pass in a visible location during this entire time.

8 44. At the time that Castenada was filming on the public sidewalk,
 9 Castenada was not breaking any law. At the time that Castenada was filming on
 10 the public sidewalk, Castenada was not a threat to public safety. Instead, Plaintiff
 11 was exercising his First Amendment right to film in an area that was newsworthy at
 12 the time.

13 45. Approximately twenty minutes later, Defendant Arana returned from
 14 his car, gave Castenada his license back and told him, "I am going to let you go,
 15 but if I see you hear again I will arrest you." Defendant Arana provided no specific
 16 reason why he would arrest Castenada, instead just issued the bare threat that he
 17 would. Plaintiff Castenada interpreted Defendant Arana as stating that, even if
 18 Plaintiff Castenada were to return and not commit any crime or not be a danger to
 19 public safety, he would be arbitrarily arrested by Arana if he exercised his first
 20 amendment right to film.

21 46. Castenada asked Arana for his name and badge number. Defendant
 22 Arana gave him that information. Plaintiff Castenada then packed up his camera
 23 and left without completing the intended footage. As a result, Plaintiff was unable
 24 to get paid for the footage. Plaintiff was also humiliated and suffered emotional
 25 distress at being detained against his will, having his license run, and being told if
 26 he attempted to come back to do his job he would be arrested regardless of the law.
 27 Castenada was unable to exercise his First Amendment right to videotape the
 28 incident on the day in question.

1 47. Later that day, Plaintiff Castenada contacted Defendant Stevens at
2 LAUSDPF and lodged a complaint about Defendant Arana's actions. Defendant
3 Stevens told Castenada that Plaintiff's complaint would be taken "very seriously."
4 Castenada was never informed of any corrective action taken. Plaintiff is informed
5 and believes, and thereon alleges that Defendant Stevens never took any steps to
6 discipline Arana for his actions.

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EQUITABLE TOLLING

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10 48. The statute of limitations applicable to Plaintiffs' causes of action 1-3,
11 should be tolled pursuant to the doctrine of equitable tolling because Plaintiff was
12 possessed of several legal remedies. Rather than filing this action Plaintiffs
13 reasonably and in good faith pursued a remedy, or remedies designed to
14 compensate plaintiffs for their injuries. Defendants received timely notice of
15 plaintiffs' claims within the applicable statute of limitations period and there is no
16 prejudice to defendant. As such, the doctrine of equitable tolling offers relief from
17 a bar based on the statute of limitations.

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20 49. In the hours and days following the October 15, 2013 incidents alleged
21 herein, Plaintiffs both contacted LAUSDPF and Defendant Stevens regarding the
22 actions of Defendant Arana. Defendant Stevens told both Plaintiffs in separate
23 phone conversations that, as a result of their complaints, LAUSD would conduct an
24 internal investigation into Arana's actions. Stevens told both Plaintiffs he would
25 be in touch with them in one to two weeks. Approximately two weeks later,
26 Defendant Stevens met with Plaintiff Navarrete in person and took her statement
27 regarding the events of October 15, 2013. Navarrete provided a comprehensive
28 account of the events and conveyed her interest in pursuing the complaint against
Arana. At the conclusion of the meeting Stevens told Navarrete he would contact
her after the investigation was concluded and let her know how he could address

1 her complaint at that time. Navarette never heard from Stevens, or anyone else at
 2 LAUSD again.

3 50. Defendant Stevens learned all of the material factual allegations
 4 contained in this Complaint through his initial conversation with both Plaintiffs
 5 and his official taking of Navarrete's statement.

6 51. Plaintiffs are informed and believe and thereon allege that Defendant
 7 Stevens informed Defendant Arana of the factual allegations contained in
 8 Plaintiffs' internal complaints.

9 52. After Navarrete did not hear back from LAUSDPF for over a month,
 10 she filed a complaint for damages with the City of Los Angeles. Around the same
 11 time, Plaintiff Castenada also filed a complaint for damages with the City of Los
 12 Angeles. Plaintiffs filed their complaints under the reasonable belief that the City's
 13 internal complaint procedure was an appropriate available remedy to them upon
 14 hearing nothing back from LAUSDPF.

15 53. Plaintiff Navarrete received a notification from the City of Los
 16 Angeles on April 17, 2014 denying her claim on the basis that Defendants were not
 17 City employees.

18 54. Plaintiff Castaneda received a notice from the City of Los Angeles that
 19 his complaint was received and was being investigated on April 14, 2014.

20 55. Castaneda received a letter from the City of Los Angeles on May 22,
 21 2014, officially denying his claim on the basis that Defendant officers were not
 22 employed by the LAPD. Both communications from the City directed Plaintiffs
 23 back to LAUSD, whom they had been told months earlier were undertaking an
 24 investigation.

25 56. Under California's equitable tolling doctrine the statute of limitations
 26 should be tolled from the day Plaintiffs were informed by LAUSD that an
 27 investigation would be conducted and LAUSD would contact Plaintiffs upon its
 28 completion, until at least the date the City of Los Angeles informed Plaintiffs their

1 only administrative remedy was with LAUSD. This is because, from the days
2 following the incident Plaintiffs reasonably and in good faith sought an alternative
3 remedy for their harms, first through an internal complaint to LAUSD, and then
4 with the City. It was only after the City of Los Angeles informed Plaintiffs
5 LAUSD was the only entity with which they could pursue an administrative
6 remedy that Plaintiffs realized an administrative complaint was unlikely to remedy
7 their harms.

8 57. Plaintiffs are informed and believe and thereon allege that LAUSD
9 never completed any investigation. Plaintiffs were never contacted, or notified as to
10 the results, or status of their complaints.

11 58. For Navarrete, the limitations period should be tolled from
12 approximately one week following the October 15, 2013 incident until April 14,
13 2014, for a total of approximately 170 days. This would extend the statutory period
14 for filing her claim to approximately April 1, 2016. Plaintiffs' Complaint was
15 filed February 23, 2016, and would therefore be well within the time limit.
16 Castaneda's applicable tolling period should begin the day of the incident, when
17 he called LAUSDPF to initiate his complaint. This would make his February 23,
18 2016 filing timely.

19 59. Defendants would not be prejudiced by the tolling of the statute
20 because Defendants had been informed of the factual basis for Plaintiffs'
21 Complaint within weeks of the incident. In fact, Defendant Stevens represented to
22 both Plaintiffs that he would conduct a thorough investigation, including taking
23 Navarrete's statement.

24 60. Plaintiffs are informed and believe and thereon allege that it is the
25 practice of the City of Los Angeles, and LAUSD to take up to six months to
26 review internal complaints so that potential Plaintiffs have shortened periods in
27 which to file Civil complaints.

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61. Plaintiffs are informed and believe, and thereon allege that Defendant Stevens had no intention of reporting the details of his investigation to Plaintiffs. Rather, Stevens intention was to use that time to gather information that would be useful to any possible legal defense and leave Plaintiffs in limbo as to the status of their complaints.

62. Defendants would not be prejudiced by the tolling of the statute because Defendants had been informed of the factual basis for Plaintiffs' Complaint within weeks of the incident. In fact, Defendant Stevens represented to both Plaintiffs that he would conduct a thorough investigation, including taking Navarrete's statement.

FIRST CAUSE OF ACTION

**VIOLATION OF 42 USC § 1983 FOR USE OF EXCESSIVE FORCE IN
VIOLATION OF THE FOURTH and FOURTEENTH AMENDMENTS
(Against Defendant Arana in his personal capacity, Defendant Stevens in his
personal capacity, and Defendant King in her official capacity.)**

63. As a separate and distinct cause of action, Plaintiffs complain and re-allege all the allegations contained in this complaint, and incorporate them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action. Plaintiffs bring this cause of action against Defendant Arana in his personal capacity, Defendant Stevens in his personal capacity, and Defendant King in her official capacity.

64. Defendant Arana, as a police officer, in uniform acted under the color of law. Specifically, Defendant Arana physically grabbed and detained both Plaintiffs in an exercise of his authority, and threatened to arrest both Plaintiffs if they did not leave the area.

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1 65. Defendant Arana deprived Plaintiffs of their rights against unlawful
2 search and seizure, that includes the right to be free from the use of excessive force.
3 This right is contained in the Fourth and Fourteenth Amendments to the United
4 States Constitution.

5 66. Defendant Stevens, as a police officer and supervisor acted under the
6 color of law. Specifically, Stevens failed to train Defendant Arana properly such
7 that Defendant Arana violated the constitutional rights of Plaintiffs. Defendant
8 Stevens failure to reprimand or discipline Defendant Arana, furthermore, ratified
9 Defendant Arana's conduct of violating Plaintiffs' constitutional rights through the
10 use of excessive and unnecessary force.

11 67. Defendant Stevens, in his ratification of the conduct of Defendant
12 Arana among other things, deprived Plaintiffs of their rights against unlawful
13 search and seizure, that includes the right to be free from the use of excessive force.
14 This right is contained in the Fourth and Fourteenth Amendments to the United
15 States Constitution.

16 68. Defendant King, in her official capacity as superintendent of LAUSD
17 failed to implement proper training protocols for LAUSDPF police officers,
18 specifically in dealing with media members covering stories around schools and the
19 use of force.

20 69. As a result of Defendant King's failure to provide proper training
21 protocols in general and specifically to Defendant Arana, Defendant King deprived
22 Plaintiffs of their rights against unlawful search and seizure, that includes the right
23 to be free from the use of excessive force. This right is contained in the Fourth and
24 Fourteenth Amendments to the United States Constitution

25 70. As a direct and proximate result of Defendants' actions, described in
26 this complaint, Plaintiffs have suffered injury, in that Plaintiff Navarrete's arm and
27 shoulder were severely injured and remain injured. She also has suffered, and
28 continues to suffer emotional distress. Defendants injured Plaintiff Castenada by

1 depriving him of his constitutional rights, detaining him for twenty minutes, and
2 causing him emotional distress, and injury to his dignitary.

3 71. In acting as is alleged in this complaint, Defendants acted knowingly,
4 willfully, and maliciously, and with reckless and callous disregard for plaintiffs'
5 federally protected rights.

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7 **SECOND CAUSE OF ACTION**

8 **VIOLATION OF 42 U.S.C. § 1983: RETALIATORY ARREST IN**
9 **VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS**
10 **(Against Defendant Arana in his personal capacity, Defendant Stevens in his**
11 **personal capacity, and Defendant King in her official capacity.)**

12 72. As a separate and distinct cause of action, Plaintiffs complain and re-
13 allege all the allegations contained in this complaint, and incorporate them by
14 reference into this cause of action as though fully set forth herein, excepting those
15 allegations which are inconsistent with this cause of action. Plaintiffs bring this
16 cause of action against Defendant Arana in his personal capacity, Defendant
17 Stevens in his personal capacity, and Defendant King in her official capacity.

18 73. Defendant Arana, as a police officer, in uniform acted under the color
19 of law. Specifically, Defendant Arana physically grabbed and detained both
20 Plaintiffs in an exercise of his authority, and threatened to arrest both Plaintiffs if
21 they did not leave the area. He also repeatedly ordered both Plaintiffs, asserting his
22 authority as a police officer.

23 74. Defendant Arana detained, arrested, and/or threatened to arrest
24 Plaintiffs in retaliation for Plaintiffs' attempt to exercise their Constitutional Right
25 to take video footage for news reports and in doing so deprived Plaintiffs of their
26 right to take video footage protected by the First and Fourteenth Amendments.
27 Specifically, Defendant Arana's acts amounted to a retaliatory arrest and detention
28 that chilled Plaintiffs in the exercise of their First and Fourteenth Amendment

1 rights. Defendant Arana also deprived Plaintiffs of their right to free speech, by
2 retaliating against Plaintiffs for invoking their free speech right to conduct video
3 journalism. Specifically, both Navarrete and Castenada told Defendant Arana they
4 had a legal right to take video footage as both were press reporters with press
5 passes prominently displayed, thus invoking their rights under the Constitution. In
6 response, and in retaliation for asserting that right, Defendant Arana physically
7 injured Navarrete, threatened to have Navarrete's press pass taken away, and
8 unlawfully detained Castenada. Defendant Arana also deprived Plaintiffs of their
9 free speech rights by threatening to arrest both Plaintiffs if they did not pack up and
10 leave, without taking any footage. This threat was a deliberate attempt to chill
11 Plaintiffs' exercise of their First Amendment rights, and represents a type of prior
12 restraint on the exercise of their First Amendment right to produce video news
13 contents for broadcast purposes. Plaintiffs' right to video record newsworthy
14 footage from a safe distance and without any threat to public safety – as both
15 Plaintiffs were doing at the time of Defendant Arana's conduct toward them – is
16 contained in the First and Fourteenth Amendments to the United States
17 Constitution.

18 75. Plaintiffs are informed and believe and thereon allege that Arana's
19 actions—arrest and/or detention, threats of arrest, and threat to take Navarrete's
20 press pass away—would chill a person of ordinary firmness from engaging in future
21 First Amendment activity, including both the taking of video footage by journalists
22 and/or asserting Constitutional rights when questioned by law enforcement
23 officers.

24 76. Plaintiffs are informed and believe and thereon allege that Defendant
25 Arana took these actions with the intention and in order to chill Plaintiffs' exercise
26 of their right to take video footage at or around the school on the day in question,
27 or in the future in violation of Plaintiffs' constitutional rights. Specifically, as
28 alleged above, Defendant Arana's intent was to prevent either Plaintiff from

1 capturing the name of the school on camera. Plaintiffs are further informed and
 2 believe, and thereon allege that Defendant Arana's motivation to chill Plaintiffs'
 3 speech and press rights was the but-for cause of his conduct on the day in question.

4 77. Plaintiffs are informed and believe and thereon allege, that the
 5 unconstitutionality of Defendant Arana's acts was a matter well established law at
 6 the time of those actions, such that a reasonable law enforcement officer would
 7 have known such actions violate Plaintiffs' constitutional rights.

8 78. Defendant Stevens, as a police officer and supervisor acted under the
 9 color of law. Specifically, Defendant Stevens failed to train Defendant Arana
 10 and/or reprimand him for violating Plaintiffs' constitutional rights by retaliatory
 11 arrest. Defendant Stevens' actions, therefore, amount to a cause and ratification of
 12 Defendant Arana's conduct.

13 79. Defendant Stevens deprived Plaintiffs of Plaintiffs' right to take video
 14 footage protected by the First and Fourteenth amendment.

15 80. Defendant King, in her official capacity as superintendent of LAUSD
 16 failed to implement proper training protocols for LAUSDPF police officers,
 17 specifically in dealing with media members covering stories around schools and
 18 LAUSDPF failed to take any corrective action as to Defendant Arana. Defendant
 19 King's actions, therefore, amount to a cause and ratification of Defendant Arana's
 20 conduct.

21 81. Defendant King deprived Plaintiffs of Plaintiffs' right to take video
 22 footage protected by the First and Fourteenth amendment.

23 82. As a direct and proximate result of defendants actions, described in
 24 this complaint, plaintiffs have suffered injury, in that Plaintiff Navarrete's arm and
 25 shoulder were severally injured and remain injured. She also has suffered, and
 26 continues to suffer emotional distress. Defendants injured Castenada by depriving
 27 him of his constitutional rights, detaining him for twenty minutes, and causing him
 28 emotional distress, and injury to his dignity.

83. In acting as is alleged in this complaint, Defendants acted knowingly, willfully, and maliciously, and with reckless and callous disregard for plaintiffs' federally protected rights.

THIRD CAUSE OF ACTION

**42 U.S.C. § 1983: UNLAWFUL RESTRAINT ON THE RIGHT TO FREE
SPEECH IN VIOLATION OF THE FIRST AND FOURTEENTH
AMENDMENTS**

(Against Defendant Arana in his personal capacity, Defendant Stevens in his personal capacity, and Defendant King in her official capacity.)

84. As a separate and distinct cause of action, Plaintiffs complain and re-allege all the allegations contained in this complaint, and incorporate them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action. Plaintiffs bring this cause of action against Defendant Arana in his personal capacity, Defendant Stevens in his personal capacity, and Defendant King in her official capacity.

85. Defendant Arana, as a police officer, in uniform acted under the color of law. Specifically, Arana asserted his authority by 1) threatening to arrest both plaintiffs if they attempted to gather footage; 2) physically preventing Plaintiffs from filming and 3) threatening to use his authority to have Plaintiff Navarrete's press pass removed and thus prevent her from taking video footage and, therefore, acting as a reporter, anywhere in Los Angeles.

86. Defendant Arana deprived Plaintiffs of Plaintiffs' right to free speech, which includes the right to engage in press activity such as video journalism while on a public sidewalk wearing an LAPD issued press pass. Plaintiffs' rights to engage in such press activity is contained in the First and Fourteenth Amendments to the United States Constitution. Specifically, Defendant Arana physically and without warning knocked Navarrete's camera away from her while she was filing,

1 ordered her to put down her camera, and then injured her by violently pulling her
 2 arms behind her back. Officer Arana then threatened to use his connections with
 3 LAPD to have Plaintiff Navarrete's press pass taken away. Arana also unlawfully
 4 detained Plaintiff Castenada by grabbing his hands while he was preparing to film
 5 the scene. Defendant Arana also deprived Plaintiffs of their free speech and press
 6 rights by threatening to arrest both Plaintiffs if they did not pack up and leave,
 7 without taking any footage. This threat was a deliberate attempt to both chill and
 8 physically prevent Plaintiffs' exercise of their First Amendment press rights to take
 9 video footage, and represents a type of prior restraint on the exercise of their First
 10 Amendment press right to produce video news content for broadcast purposes.
 11 Plaintiffs' right to act as press is contained in the First and Fourteenth Amendments
 12 to the United States Constitution and, under *New York Times v. Sullivan* receives
 13 heightened protections when prior restraint is involved.

14 87. Plaintiffs are informed and believe and thereon allege, that the
 15 unconstitutionality of Defendant Arana's acts was a matter of well established law
 16 at the time of those actions, such that a reasonable law enforcement officer would
 17 have known such actions violate Plaintiffs' constitutional rights.

18 88. Defendant Stevens, as a police officer and supervisor acted under the
 19 color of law. Specifically, Stevens failed to train Arana and/or reprimand him for
 20 violating Plaintiffs' constitutional rights associated with journalism and free
 21 speech. Plaintiffs are informed and believe, and thereon allege Stevens never
 22 informed Defendant Arana that media personal, with credentials are allowed to film
 23 from a public sidewalk. Plaintiffs are further informed and believe, and thereon
 24 allege Defendant Stevens never trained Defendant Arana on the appropriate
 25 response when a citizen asserts the right to free speech. Defendant Stevens
 26 abridged and deprived Plaintiffs of their constitutional rights through his own acts
 27 and omissions. Defendant Stevens' actions, therefore, amount to a cause and
 28 ratification of Defendant Arana's conduct.

89. Defendant King, in her official capacity as superintendent of LAUSD failed to implement proper training protocols for LAUSDPF police officers, specifically in dealing with media members covering stories around schools. Defendant King, as being in charge of LAUSDPF, also failed to take appropriate corrective action after these events involving Plaintiffs were made known to LAUSDPF. Defendant King's actions, therefore, amount to a cause and ratification of Defendant Arana's conduct.

90. Defendant King deprived Plaintiffs of Plaintiffs' right to free speech. Specifically, she failed to implement proper training protocols for LAUSDPF police officers, specifically in dealing with media members covering stories around schools. King abridged and deprived Plaintiffs of their constitutional right through her and/or her predecessor in office's acts or omissions. This right is contained in the First and Fourteenth Amendments to the United States Constitution.

91. Plaintiffs seek only injunctive relief from Defendant King in the form of mandatory training for LAUSDPF officers in proper use of force and proper practices related to media coverage of crime scenes.

92. Plaintiff Navarrete still works in video journalism and visits crime scenes daily. Without proper training she will continue to feel distressed and chilled in the exercise of her free speech rights when covering stories at or near LAUSD schools.

93. As a direct and proximate result of defendants' actions, described in this complaint, plaintiffs have suffered injury and damage in that Plaintiff Navarrete's arm and shoulder were severally injured and remain injured. Her injury has subsequently made it more difficult to exercise her free speech rights as a photo journalist. She also has suffered, and continues to suffer emotional distress. Defendants injured Castenada by depriving him of his constitutional rights, detaining him for twenty minutes, and causing him emotional distress, and injury to

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1 his dignitary. Defendants prevented both Plaintiffs from covering the story at the
2 location and on the date in question.

3 94. In acting as is alleged in this complaint, defendants acted knowingly,
4 willfully, and maliciously, and with reckless and callous disregard for Plaintiffs'
5 federally protected rights.

6
7 WHEREFORE, plaintiffs pray judgment against defendants as follows:

8 1. For compensatory damages, in an amount to be determined according
9 to proof at trial;
10 2. For punitive damages, in an amount to be determined according to
11 proof at trial.
12 3. For reasonable attorney's fees, pursuant to 42 U.S.C. § 1988;
13 4. For costs of suit incurred in this action;
14 5. For injunctive relief in the form of mandatory training for all
15 LAUSDPF officers in the proper use of force and proper practices
16 related to media coverage and officer inter actions with video
17 journalists; and
18 6. For such other and further relief as deemed just and proper by this
19 Court.

1 Dated: April 14, 2016

HENNIG RUIZ P.C.

2 /s/

3

4 Rob Hennig

5 Samuel Marion Brown

6 Attorneys for Plaintiffs MARCELLA

7 NAVARETTE and JOSE CASTENADA

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HENNIG
RUIZ P.C.

1 **DEMAND FOR JURY TRIAL**
2

3 Plaintiff demands trial by jury in this matter
4

5
6 Dated: April 14, 2016

HENNIG RUIZ P.C.

7 /s/
8

9 Rob Hennig
10 Samuel Marion Brown
11 Attorneys for Plaintiffs MARCELLA
12 NAVARRETE and JOSE CASTENADA
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HENNIG
RUIZ P.C.